

RIGHT OF WAY USE PERMIT

Legal description of abutting property: _____

Description of permitted matter: _____

A drawing is attached hereto indicating the location of the permitted matter.

Permittee: _____

The City of Midland (hereinafter referred to as City) hereby extends this permit to the above named permittee to place the above described permitted matter on that portion of the City of Midland's right of way described above and depicted on the attached drawing. The City of Midland may unilaterally revoke this permit at any time.

In consideration herefor, **the Permittee agrees** as a covenant running with the land of the above described abutting premises:

1. **TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND FROM ANY CLAIM, CAUSE OF ACTION, IMPOSITION OF DAMAGES OR LIABILITY WHICH MAY ARISE AGAINST THE CITY OF MIDLAND BROUGHT BY ANY PARTY ON ACCOUNT OF THE PRESENCE OF THE ABOVE DESCRIBED PERMITTED MATTER, EVEN IF SUCH LIABILITY OR DAMAGES IS ATTRIBUTABLE TO THE NEGLIGENCE OF THE CITY OF MIDLAND, OR THE CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH PERMITTEE OR PERMITTEE'S EMPLOYEE'S, OR AGENTS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERMITTED MATTER DESCRIBED ABOVE AND PERMITTEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.**
2. **TO INDEMNIFY AND HOLD HARMLESS ANY UTILITY FRANCHISED BY THE CITY OF MIDLAND FOR ANY DAMAGES IT MAY CAUSE TO THE ABOVE DESCRIBED PERMITTED MATTER FOR ANY REASON.**
3. To remove or allow to be removed the above described matter at no cost to the City or any franchised utility should the City or that franchised utility have need of the right of way conflicting with the permitted matter;
4. To maintain all vegetation part of the permitted matter in a living, healthy, and safe condition;

5. To maintain all of the permitted matter in a safe, sanitary, sightly, and repaired condition;
6. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISION, PERMITTEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH PERMITTEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.**
7. The permittee and the City acknowledge that this permit is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

This permit does not relieve the permittee from the obligation of observing all applicable ordinances of the City of Midland, specifically including but not limited to the regulations of the Zoning Code and the requirement to obtain a building permit where applicable.

SIGNED AND ISSUED this _____ day of _____, 20____.

PERMITTEE: CITY OF MIDLAND, TEXAS

By _____
City Manager or Designee

NOTARY AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, personally appeared _____, known to me, and on oath stated that he executed the foregoing document for the purposes and considerations therein expressed and an act and deed of the City of Midland, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

Notary Public, State of Texas

NOTARY AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, personally appeared
_____, Permittee, known to me, and on oath stated that he/she
executed the foregoing document for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____day of
_____, 20____.

Notary Public, State of Texas